

HOUSE BILL REPORT

HB 2443

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to consumer reports procured for employment purposes.

Brief Description: Requiring consumer reports procured for employment to be transmitted to the consumer.

Sponsors: Representatives Hudgins, Hasegawa and McDermott.

Brief History:

Committee Activity:

Commerce & Labor: 2/1/06, 2/2/06 [DPS].

Brief Summary of Substitute Bill

- Requires an employer, who requests a consumer report for employment purposes, to furnish the report to the employee or potential employee to whom it relates, within a reasonable time after receipt not to exceed one week, if the person who is the subject of the report requests a copy.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Hudgins, Kenney and McCoy.

Minority Report: Do not pass. Signed by 4 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse and Holmquist.

Staff: Lara Zarowsky (786-7119) and Sarah Dylag (786-7109).

Background:

The federal Fair Credit Reporting Act and the state Fair Credit Reporting Act include provisions to ensure that consumers have access to the information reported about them to lenders, insurers and others who make decisions about providing credit and services. Under certain circumstances, both state and federal law permit consumer-reporting agencies to release credit reports relating to current or potential employees to employers for employment purposes.

A report used for "employment purposes" is used to evaluate a consumer for employment, promotion, reassignment, or retention as an employee. When requesting a report for a person being considered for employment, an employer must first disclose in writing that a consumer report may be obtained for purposes of considering the application, or must obtain authorization from the potential employee to procure the report. With regard to a current employee, the employer must have provided, at any time after the employee was hired, written notice that consumer reports may be used for employment purposes. A written statement contained in an employee manual is adequate to constitute notice for these purposes.

Before taking any adverse action based on a consumer report, state law requires an employer to provide the current or potential employee to whom the report relates:

- contact information for the consumer reporting agency providing the report;
- a description of the employee's rights relating to consumer reports that are obtained for employment purposes; and
- a reasonable opportunity to respond to disputed information contained within the report.

Under state law, a "consumer report" is a written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used or collected in part for, among other things, employment purposes. Reports include information about a consumer's identity, present employment, credit history, and any matters of public record, including civil suits and judgments, bankruptcy records, or other legal proceedings recorded by a court.

Summary of Substitute Bill:

When an employer requests and receives a consumer report related to a current or potential employee for employment purposes, the employer must furnish the report upon request to the employee to whom the report relates. The employer must provide the report to the employee within a reasonable time not to exceed one week. This requirement is not contingent upon adverse action based on the report being taken by the employer.

Substitute Bill Compared to Original Bill:

An employer's responsibility to furnish an employee or potential employee with a consumer report requested for employment purposes attaches upon the employee making a request for the report. The employer is no longer required to provide the report immediately, but must comply with an employee's request within a reasonable time not to exceed one week.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Original bill) At the most basic level, this bill will allow people to verify that they are the person being represented in the report that is being reviewed by a potential employer for employment purposes. Beyond that, potential employees should have an opportunity to see what the employer sees during the hiring process so employees can package themselves in a way that will facilitate their job search. This is a way to augment the protections provided under the federal law, which other states already have in place.

Testimony Against: (Original bill) Provisions of the existing law enacted in 1993, and the revisions to the federal Reporting Act, are fairly strict and sufficient to protect consumers. The Fair and Accurate Credit Transactions Act already provides for consumers to receive a free report annually from each of the three credit reporting agencies. Some believe the federal law preempts the requirements that would be imposed under this bill.

Persons Testifying: (In support) Representative Zack Hudgins, prime sponsor.

(Opposed) Cliff Webster, Consumer Data Industry Association.

Persons Signed In To Testify But Not Testifying: None.